



The Voice of Small Business

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**Testimony on Small Business Regulation - House Regulatory Reform Committee
Wednesday, March 4, 2015**

My name is Charlie Owens and I am the State Director for the National Federation of Independent Business, an advocate for Michigan small businesses owners since 1943.

Thank you for this opportunity to come before the committee and discuss how regulations impact the ability of Michigan small business to compete and provide jobs.

NFIB's membership is a representative slice of Michigan small business. Service and manufacturing, farm and retail, construction and financial – NFIB members run the gamut of all industry segments and is always an accurate snapshot of Michigan small business opinion and concerns on matters of public policy.

Some of you who serve on the House Commerce Committee will recall that a few weeks back we gave a presentation on the “State of Michigan Small Business” and we talked about the regulatory climate as being one of the key factors in the overall business climate of the state and nation. We cannot overestimate the importance of this committee in that regard, and by the way, thank you for reporting out the bills to reform our wage garnishment process. This is a timely example of how we can work together to improve our regulatory climate for small business and all concerned.

As we conveyed to the committee on that issue, small business is more susceptible to the costs of regulation simply because of economies of scale. Most small businesses do not have dedicated staff tasked with the role of keeping up - and in compliance with - the rules and regulations that seem to proliferate in today's business environment.

Let me pause here and attempt to quantify that last statement. One of the documents that I have provided to the committee is a running clock of federal regulations. Since it is a paper document it ends with last week, however, it is updated daily on the website mentioned in the handout. Last week, ending on February 27th, there were 65 final rules published, 48 proposed rules and 1,715 pages of rules added to the Federal Register. For 2015 Year to Date (2-27) there were 416 final rules published, 327 proposed rules and 11,059 pages of rules added to the Federal Register. Keep in mind that this is cumulative and the annual outflow of more than 3,500 final federal rules—sometimes far above that level—means that 87,282 federal rules have been issued since 1993. There were 51 rules for every law Congress passed in 2013.

I have also provided the committee with a study done by the SBA in 2010 that attempted to quantify the cost of regulations on small business. In that report, the updated cost per employee for firms with fewer than 20 employees was \$10,585. This is a 36 percent difference between the costs incurred by small firms when compared with their larger counterparts.

While the SBA data applies to all business sectors, an expanded study released in the fall of last year by the National Manufacturer's Association (NMA) highlights the particular impact that regulations have on the manufacturing sector. As Michigan is one of the top states for manufacturing, these costs fall disproportionately on our state. The NMA study concluded that manufacturing businesses face a disproportionate share of the cost burden at \$19,564 per employee per year — nearly double what the average U.S. business pays to comply with federal rules.

While some have disputed the methodology of the SBA and NMA studies, other research has indicated that the numbers are close enough to warrant concern over the current course of regulatory bloat in the federal government. It is also worth noting that the current administration's attempts to quantify the cost of regulations with its own research via the Office of Management and Budget (OMB) 2014 Draft Report to Congress on the Benefits and Costs of Federal Regulations has some serious shortcomings of its own. The OMB study reports that executive agency major rules had benefits of up to \$81.4 billion annually, while costing just \$2.4 billion to \$3.0 billion annually in 2010 dollars. That is not surprising when one considers that the OMB methodology reviewed just 54 major rules, and a few hundred significant ones, and presented net-benefit analysis for only seven - when 3,659 rules were finalized by over 60 federal departments, agencies and commissions during the period covered by the study.

While the battle of the studies continues, an observation by Clyde Wayne Crews Jr. (Policy director at the Competitive Enterprise Institute) sums up the situation: "The ongoing, actually inexcusable, official uncertainty over the aggregate costs of U.S. federal regulations despite over a decade of Office of Management and Budget reports to Congress on the benefits and costs raises concern, not about those trying to measure, but on the fact that the largest government on earth has no map of itself when it comes to regulation. Official disclosure needs amplification, and Congress does need to fix the problem."

Let me conclude with this: while we can debate the numbers, there is no doubt that the "death by a thousand cuts" of continued regulatory expansion is real and has real, albeit hidden, costs to our economy in jobs, income and misallocated resources. Keep also in mind that the data presented here is for federal regulations ONLY and does not include the additional layers of state and local regulation.

Let us continue to find ways to improve our regulatory climate in Michigan and I thank you for your support of small business.

Attachments:

Michigan Small Business Fact Sheet

SBA Impact of Regulations on Small Business

NAM The Cost of Federal Regulation to the U.S. Economy, Manufacturing and Small Business

Welcome to the other National Debt – The Cost of Regulation

Hairball: The Cost of Federal Regulation to the U.S. Economy

Impact of Regulations

Michigan Small Business

NATIONAL FACTS

Small businesses pay an estimated **\$11,724 per employee per year to comply with federal regulations**, a much higher amount than the average U.S. business.



There are **3,348** proposed federal rules in the pipeline as of May 2014, nearly one-third impacting small businesses directly.

United States has fallen out of the **top ten ranks**

in the ease of starting a business, according to World Bank data.



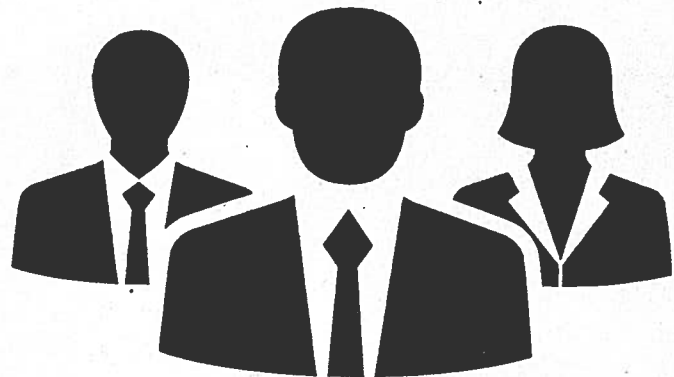
65 months in a row, small businesses have cited regulations as a top impediment to conducting business in NFIB's monthly Small Business Optimism Index.



At the end of 2013, there were **175,496** pages in the code of federal regulations.

STATE FACTS

There are over **850,000** small businesses in Michigan, each crucial to the economic growth of the state.



Small businesses employed more than **851,000** Michiganians last year.

The Impact of Regulatory Costs on Small Firms

by Nicole V. Crain and W. Mark Crain, Lafayette College, Easton, PA, 18042. 2010
81 pages. Under contract SBAHQ-08-M-0466.

Regulations are needed to provide the rules and structure for societies to properly function. This research, while mindful of this important fact, focuses on the costs imposed by federal regulations; it thus updates and verifies the finding of disproportionality in the burden imposed by federal regulations on small business. Previous research by the Office of Advocacy has established that regulatory and paperwork costs were found to be more onerous for small firms than larger firms.

Overall Findings

In the face of yet higher costs of federal regulations, the research shows that small businesses continue to bear a disproportionate share of the federal regulatory burden. The findings are consistent with those in Hopkins (1995), Crain and Hopkins (2001), and Crain (2005).

The research finds that the total costs of federal regulations have further increased from the level established in the 2005 study, as have the costs per employee. More specifically, the total cost of federal regulations has increased to \$1.75 trillion, while the updated cost per employee for firms with fewer than

20 employees is now \$10,585 (a 36 percent difference between the costs incurred by small firms when compared with their larger counterparts).

A caveat is necessary at this point. This current iteration of the study uses an index for the calculation of the economic regulations estimate that is wider and more encompassing than that previously used. While different from the previous index, it provides the study with a fuller estimate, thus partially remedying previous underestimates. More specifically, the Regulatory Quality Index from the World Bank used in this study has more observations and also has continuous data from 1998 to 2008. The OECD index used in the previous study (2005) was more limited in scope and had observations every five years. A significant increase in the new estimate is due to the new, more encompassing methodology. To obtain an idea of how much of the increase in the estimate of economic regulations was due to the new methodology, the authors ran the new index on the 2005 data, in effect re-estimating the 2005 model using the new index. The economic regulations increased from \$727 billion to \$1.172 trillion, a \$445 billion increase.

Annual Cost of Federal Regulations by Firm Size

Type of Regulation	Cost per Employee for All Firms	Cost per Employee for Firms with:		
		Fewer than 20 Employees	20-499 Employees	500 or More Employees
All Federal Regulation	\$8,086	\$10,585	\$7,454	\$7,755
Economic	5,153	4,120	4,750	5,835
Environmental	1,523	4,101	1,294	883
Tax Compliance	800	1,584	760	517
Occupational Safety and Health and Homeland Security	610	781	650	520

Source: *The Impact of Regulatory Costs on Small Firms*, by Nicole Crain and Mark Crain, 2010. U.S. Small Business Administration, Office of Advocacy (www.sba.gov/advo/research/rs371tot.pdf).

This report was developed under a contract with the Small Business Administration, Office of Advocacy, and contains information and analysis that was reviewed and edited by officials of the Office of Advocacy. However, the final conclusions of the report do not necessarily reflect the views of the Office of Advocacy.

While the true costs of federal regulation have yet to be calculated, Advocacy research has repeatedly and consistently attempted to uncover an estimate of the burden in general, and the impact it has on small businesses, in particular. This current iteration of the research advances the scope, and attempts to make a dent in previous underestimates.

Highlights

- Environmental regulations appear to be the main cost drivers in determining the severity of the disproportionate impact on small firms. Compliance with environmental regulations costs 364 percent more in small firms than in large firms. The cost of tax compliance is 206 percent higher in small firms than the cost in large firms.
- The disproportionality of the burden borne by small firms, identified in previous Advocacy studies, is further validated in this instance. On a per-employee basis, it costs about \$2,830 more for small firms to comply than their larger counterparts. This straight difference translates into 36 percent. When compared with the 2005 study reflecting the new methodology, the disproportionality rate is lower. The current study basically finds that while there still is disproportionality borne by small business, there is slightly less disproportionality in the underlying distribution.
- This report details the distribution of regulatory costs for five major sectors of the U.S. economy: manufacturing, trade (wholesale and retail), services, health care, and other (a residual category containing all enterprises not included in the other four). The sector-specific findings reveal that the disproportionate cost burden on small firms is particularly stark for the manufacturing sector. The "other" category also deserves mention here as the disproportionality between small and large is stark. The compliance

Hopkins, Thomas D., 1995. *Profiles of Regulatory Costs*. U.S. Small Business Administration, Office of Advocacy. www.sba.gov/advo/research/rs1995hoptot.pdf.

Crain, W. Mark, and Thomas D. Hopkins, 2001. *The Impact of Regulatory Costs on Small Firms*. U.S. Small Business Administration, Office of Advocacy, www.sba.gov/advo/research/rs207tot.pdf.

W. Mark Crain, 2005. *The Impact of Regulatory Costs on Small Firms*. U.S. Small Business Administration, Office of Advocacy, www.sba.gov/advo/research/rs264tot.pdf.

Johnson, Joseph M., 2005. "A Review and Synthesis of the Cost of Workplace Regulations," in *Cross-Border Human Resources, Labor and Employment Issues*.

cost per employee for small manufacturers is more than double the compliance cost for medium-sized and large firms (110 percent and 125 percent, respectively). In the service sector, regulatory costs differ little between small businesses and larger firms. The distribution of the regulatory burden across firm sizes in the other major business sectors falls somewhere between these two cases.

Scope and Methodology

The report divides federal regulations into four categories: economic, environmental, tax compliance, OSHHS (occupational safety and health, and homeland security). The estimate of economic regulations is obtained by regressing the Regulatory Quality Index on gross domestic product per capita, and includes labor market economic regulations that were included in the workplace regulation column in previous reports. Second, gaps in the baseline are filled with Office of Management and Budget (OMB) estimates. The costs of workplace regulations are based on the updated estimates from the study by Joseph Johnson (2005). Homeland security cost estimates are based on OMB reports, as are environmental regulations estimates. Tax compliance costs, finally, are based on the 2005 report from the Tax Foundation. The allocation of costs across employment classes was made possible by use of Census data published by the Office of Advocacy.

This report was peer reviewed consistent with the Office of Advocacy's data quality guidelines. More information on this process can be obtained by contacting the director of economic research at advocacy@sba.gov or (202) 205-6533.

Ordering Information

Research from the Office of Advocacy is online at www.sba.gov/advo/research. The url of the report is www.sba.gov/advo/research/rs371tot.pdf. Copies are available for purchase from:

National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161
(800) 553-6847 or (703) 605-6000
TDD: (703) 487-4639
www.ntis.gov

Order number: Pending

For email delivery of Advocacy's newsletter, press, regulatory news, and research, visit <http://web.sba.gov/list>. For RSS feeds, visit www.sba.gov/advo/rsslibrary.html.

The Cost of Federal Regulation to the U.S. Economy, Manufacturing and Small Business

(Executive Summary)



NATIONAL ASSOCIATION OF
Manufacturers

President's Message:

Manufacturers are the backbone of our nation's economy and employ more than 12 million men and women who make things in America. To maintain manufacturing momentum and encourage hiring, the United States needs government policies more attuned to the realities of global competition. Our regulatory system produces unnecessarily costly rules, duplicative mandates, impediments to innovation and barriers to our international competitiveness. Despite many initiatives and efforts to reduce the unnecessary regulatory cost imposed on businesses, the cumulative regulatory burden continues to expand.

The National Association of Manufacturers (NAM) has issued a new report that shows the macroeconomic impact of federal regulations. The study also reveals the extent to which manufacturers bear a disproportionate share of the regulatory burden, and that burden is heaviest on small manufacturers because their compliance costs are often not affected by economies of scale. The analysis finds that the average U.S. company pays \$9,991 per employee per year to comply with federal regulations. The average manufacturer in the United States pays nearly double that amount—\$19,564 per employee per year. Small manufacturers, or those with fewer than 50 employees, incur regulatory costs of \$34,671 per employee per year. This is more than three times the cost borne by the average U.S. company.

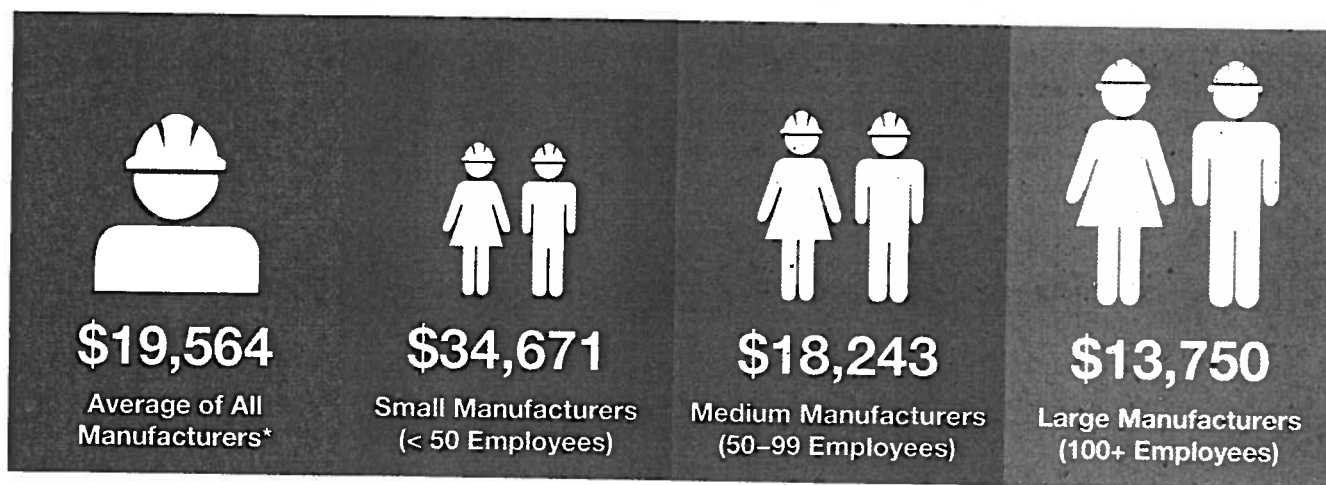
If we are to succeed in creating a more competitive economy, we must reform our regulatory system so that manufacturers can innovate and make better products instead of spending hours and resources complying with inefficient, duplicative and unnecessarily burdensome regulations. Manufacturers are committed to commonsense regulatory reforms that protect the environment and ensure public health and safety, while also promoting economic growth and job creation. The time is now for members of both parties to work together to reform our regulatory system.

Jay Timmons
NAM President and CEO

Some Key Findings:

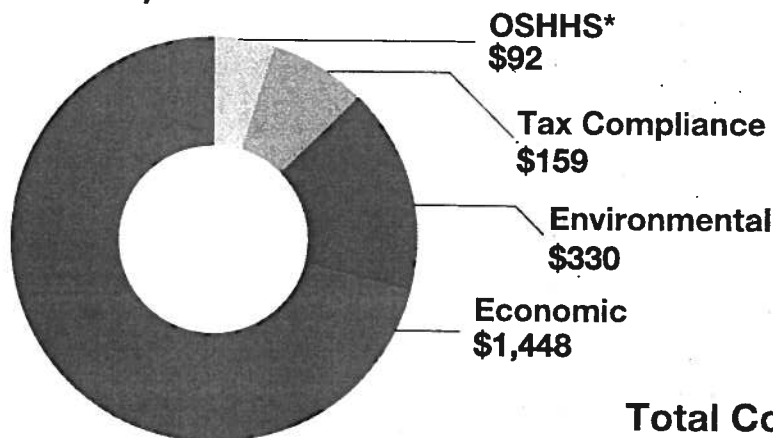
- **Total cost of federal regulations in 2012 was \$2.028 trillion (in 2014 dollars).**
- **The annual cost burden for an average U.S. firm is \$233,182, or 21 percent of average payroll.**
- **Eighty-eight percent of those surveyed say that federal regulations are a top challenge for their firm.**

Regulatory Compliance Costs per Employee per Year for Manufacturers, 2012 (in 2014 Dollars)



*The average compliance costs for manufacturers to comply with federal regulations (\$19,564 per employee per year) is nearly double the rate seen for all U.S. businesses (\$9,991 per employee per year). For small manufacturers with fewer than 50 employees, compliance costs per employee are more than three times the average of all firms.

Total Cost of Federal Regulations by Type, 2012
(in Billions of 2014 Dollars)



Total Cost: \$2.028 Trillion

*OSHHHS stands for occupational safety and health and homeland security regulations.

i About the Study:

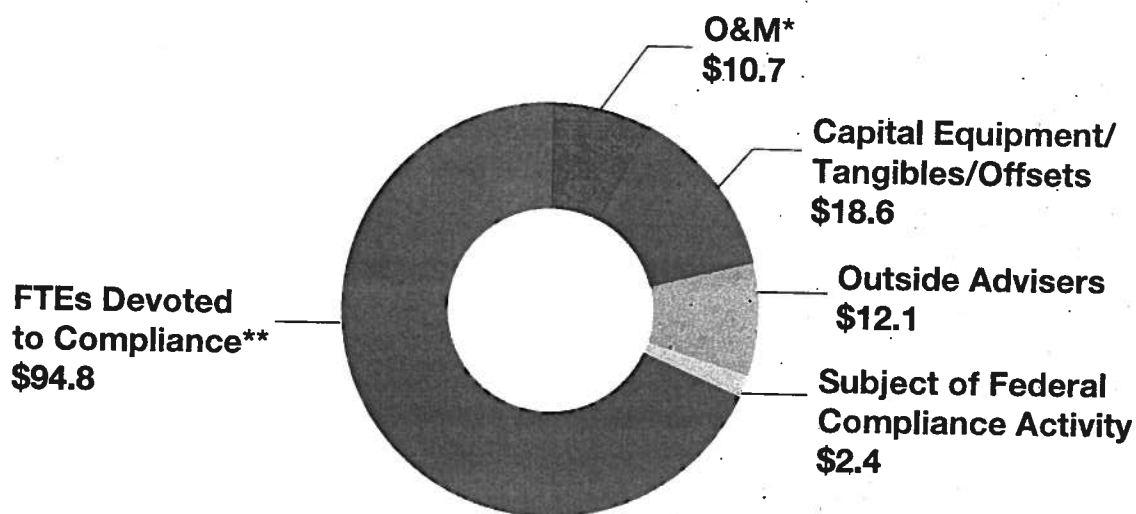
The NAM commissioned this analysis by economists Nicole V. Crain and W. Mark Crain, who estimated total federal regulatory costs reaching \$2.028 trillion in 2012 (in 2014 dollars). The conclusions identify significant burdens for manufacturers in the United States, particularly small manufacturers with fewer than 50 employees, who pay an estimated \$34,671 per employee per year to comply with federal regulations. The NAM study builds on previous analyses conducted by the authors for the U.S. Small Business Administration's Office of Advocacy. This study updates previous estimates of the cost of federal regulation using new and updated data and incorporates the findings of an extensive survey of NAM members that validate conclusions reached in the economic analysis.

Regulatory Costs in Small, Medium-Sized and Large Firms, 2012
(Cost per Employee per Year in 2014 Dollars)

		Firm Size		
Type of Regulation	All Firms	< 50 Employees	50-99 Employees	100+ Employees
Manufacturing				
Total	\$ 19,564	\$ 34,671	\$ 18,243	\$ 13,750
Economic	\$ 7,958	\$ 12,885	\$ 9,399	\$ 6,544
Environmental	\$ 10,497	\$ 20,361	\$ 7,625	\$ 6,239
Tax Compliance	\$ 295	\$ 378	\$ 346	\$ 269
OSHHs*	\$ 813	\$ 1,048	\$ 873	\$ 698
Totals (All U.S. Businesses)				
Total	\$ 9,991	\$ 11,724	\$ 10,664	\$ 9,083
Economic	\$ 6,381	\$ 5,662	\$ 7,464	\$ 6,728
Environmental	\$ 1,889	\$ 3,574	\$ 1,338	\$ 1,014
Tax Compliance	\$ 960	\$ 1,518	\$ 1,053	\$ 694
OSHHs*	\$ 761	\$ 970	\$ 809	\$ 647

*OSHHHS stands for occupational safety and health and homeland security regulations.

Estimates of Direct Regulatory Costs on Manufacturers (in Billions of 2014 Dollars)



Compliance Expenditures: \$138.6 Billion

*O&M: operations and maintenance

**FTEs: full-time equivalents

Source: NAM member survey

Survey of Manufacturers: What Would You Do with Funds Currently Allocated to Federal Regulatory Compliance?



*ROI: return on investment

Source: NAM member survey



Ten Thousand Commandments

Welcome to the other national debt—the cost of regulation.

"The best measure of the overall regulatory burden" —Wall Street Journal.

Ten Thousand Commandments

SUNDAY, MARCH 1, 2015

The Day's Decrees

February ends with 416 federal rules and regulations.

For extra info on major final rules and small business impacts, check the [Regulation Overview](#).

Today's Federal Register : 2015 Burst Transmission

2015	# Final Rules*	# Pages**	Proposed Rules	Signif Docs	# Notices	# Prez Docs	Pages this Week:
Totals	416	11059	327	98	3585	25	1715
2/27/2015	17	507	15	10	91	2	Final Rules this week: 65
2/26/2015	16	246	12	3	100		
2/25/2015	8	337	5	2	121	2	
2/24/2015	14	393	8	4	130	2	
2/23/2015	10	232	8	5	60		
							Proposed Rules 48

**Partial correcting for skips/blanks; unadj. paper Register is 11076 pps.

*Daily count from FR website; FR database count is somewhat higher;

see the Ten Thousand Commandments "Regulation Overview" at

www.tenthousandcommandments.com

TIP OF THE COSTBERG



New: Tip of the Costberg (2015 Edition) — A Working Paper on the annual cost of federal regulation.

SMALL BUSINESSES FOR SENSIBLE REGULATIONS

A project of NFIB, Small Businesses for Sensible Regulations is a broad coalition of small business owners, farmers, manufacturers and associations committed to ensuring federal regulations do not harm jobs and stifle economic growth.

The Cost of
Federal
Regulation to
the U.S.
Economy,
Manufacturing
and Small
Business

The study, conducted by economists Nicole V. and W. Mark Crain, concluded that manufacturing businesses face a disproportionate share of the cost of regulation.

Hairball: The Cost Of Federal Regulation To The U.S. Economy

by Clyde Wayne Crews Jr. Policy director at the Competitive Enterprise Institute

We dispute their numbers. We don't have hard, concrete numbers, but we dispute them.

—Former White House press secretary Jay Carney addressing criticism of administration claims regarding paid enrollments in Obamacare.

Before the National Association of Manufacturers even had a chance to release their important new report today on the aggregate annual cost of federal regulations, left-wing groups decided to attack the numbers. They disliked an earlier report that authors Mark Crain and Nicole Crain had prepared for the Small Business Administration (SBA) that found regulatory costs of \$1.75 trillion annually, and struck pre-emptively.

No one need credit politically motivated attacks like this anymore. The ongoing, actually inexcusable, official uncertainty over the aggregate costs of U.S. federal regulations despite over a decade of Office of Management and Budget reports to Congress on the benefits and costs raises concern, not about those trying to measure, but on the fact that the largest government on earth has no map of itself when it comes to regulation.

Official disclosure needs amplification, and Congress does need to fix the problem.

The new estimate from NAM/Crain and Crain turns out to be \$2.028 trillion annually. They break costs up into four main categories (in billions of dollars):

Economic: \$1,448

Environmental: \$330

Occupational Safety/Heath & Homeland Security: \$92

Tax Compliance: \$159

For perspective, the federal budget approaches \$4 trillion. A couple years back I too set about reckoning a baseline for the cost of regulation and intervention. I did it Lego-block style rather than a "top-down" econometric approach, sampling governmental studies of the past couple decades and other information and assembling a composite of sorts. Originally I called the working paper Piss and Vinegar in honor of all the vehemence and spit surrounding the regulatory cost issue, but settled on Tip of the Costberg, in which I reckon (calculate isn't quite the word for my project) some \$1.863 trillion in annual costs beneath which I'm reluctant to go, and which is not inclusive besides.

I did keep my subtitle, On the Invalidity of All Cost of Regulation Estimates, and the Need to Compile Them Anyway.

In recent years, the administration has referred to regulatory costs approaching \$2 trillion an "urban legend." There was even an official White House blog post lamenting that "One group is even claiming that the regulations currently on the books cost the U.S. economy \$1.75 trillion in 2008." That presumably contemptible "one group"? It was, of course, Obama's own SBA.

It was improper for the Obama Administration to effectively denigrate the Small Business Administration's overall effort to establish and clarify regulatory impacts. Administration policymakers should have striven to reconcile data differences

or methodological approaches and coalesce around some defensible narrative regarding the aggregate scope of regulation.

This "official" attack on the SBA by the very administration under which the report appeared was inconsistent with the spirit of Obama's Executive Order 13563 on "Improving Regulation and Regulatory Review" and with the reality that we know precious little about the regulatory state's impacts and almost thoroughly fail to account for much of it.

Interestingly the OMB itself some years back presented costs not far removed from modern estimates like the new NAM/Crain and Crain report.

Methodologies were somewhat different, but OMB formerly embraced SBA regulatory cost surveys. For context and reference, several-turn-of-the-century-era cost estimates may be seen in my Costberg chart Estimates of the Cost of Regulation: Late 20th Century, Early 21st Century. Even the GAO (Government Accountability Office) weighed in during the 1990s; and notably, OMB's 2002 estimates once exceeded those of SBA. In the October 2001 report by Mark Crain and Thomas D. Hopkins, the authors noted regulatory costs of \$843 billion, which would be around \$1.1 trillion in 2013 dollars. That report, in turn, had updated still earlier analyses, such as Thomas Hopkins' original 1995 analysis for SBA that OMB employed with enthusiasm in the mid-90s to early 2000s.

All else equal, adjusting those costs to modern would put these assessments in the NAM ballpark, particularly upon including the cost of new rulemaking regimes such as the Department of Homeland Security, the Dodd-Frank financial rules, the Affordable Care Act, the Federal Communications Commission's "net neutrality" rule, restricted access to energy and other adventures.

Regulatory cost measurement is problematic, without doubt: I even regard it to be to some extent impossible. But much of the outrage seems geared toward rationalizing agency regulatory intervention and turning attention away from genuine overreach.

Bottom line: there now exists 20 years of OMB regulatory cost roundups, plenty of time for critics to have created alternative aggregate estimates rather than try to sweep regulation under a rug.

Much of the problem appears to be with measurement as such. The impulse to pour disdain on those who called for disclosure and accountability is hard to understand, but has had the effect of thwarting efforts to reform regulations. For example, a report called "Setting the Record Straight," editorialized, "we concluded that the Crain and Crain report does not come close to justifying regulatory reform efforts, such as the REINS Act, which seek to limit protection of people and the environment." No one wants to limit protection of people and the environment, the comment was simply belligerent.

But no more. We need to make better sense of the regulatory hairball, and we will. Unfortunately, the U.S. Government doesn't have its own comprehensive data. We need NAM's report and others—but we need the federal government to measure itself again, too.

<http://www.forbes.com/sites/waynecrews/2014/09/10/hairball-the-cost-of-federal-regulation-to-the-u-s-economy/>